IN THE HIGH COURT OF CHHATTISGARH : BILASPUR

Writ Petition No. 32 /2001

Petitioner : Ramharakh S/o Deepchand, aged about 30 years, by caste Goud tribal, resident of SECL colony, Old Mines, Bhatgaon, Thana Pratap Pur, district Sarguja, Chhattisgarh.

P. R. No. 51/
Presented by Shri .....
dated ...11-1-2001

Versus

Respondents : 1. The Sub Divisional Officer (Revenue) (Competent Authority, under section 122 (1) of Madhya Pradesh Panchayat Raj Adhiniyam) Surajpur District Sarguja, Chhattisgarh.

2. Ramesh S/o Sai aged about 27 years by caste Cherva, occupation cultivation, resident of village Bhatgaon Basti, Thana Pratappur Tehsil Suraj Pur, district Sarguja, Chhattisgarh.

3. Amar Sai S/o Sahdev aged about 21 years, by caste Kanwar, R/o village Bhatgaon, Basti, Thana Pratap Pur District Sarguja, Chhattisgarh.

4. Smt. Phulkeriya wife of Michel Kerketta, aged 45 years, by caste Oraon, resident of village New Mines, Bhatgaon, Thana Pratap Pur District Sarguja, Chhattisgarh.

5. Smt. Manoji Oraon W/o Shri Maan Sai aged about 35 years, by caste Oraon, R/o Emlipara Bhatgaon, Thana Pratap Pur, district Sarguja, C'Garh.

6. Jaganarayan, son of Rajju aged about 22 years, by caste Kanwar, resident of village Bhatgaon, baste, Thana, Pratap Pur, district Sarguja, C'Garh.

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INCHARGE
Legal Cases Section
Office of the Advocate General
State of Chhattisgarh
BILASPUR
Received
16/1/2001

(A)

7. Suresh, son of Ramkewal, aged about 22 years by caste Oraon resident of village Old Mines Bhatgaon, colliery, thana Bhatgaon, Pratappur, District Sarguja, Chhattisgarh.

8. Sanjay S/o Shikhnarayan aged about 23 years, resident of village Bhhattgaon, Old Mines, Doublestore, thana Pratap Pur, district Sarguja Chhattisgarh.

9. Smt. Mamkultha wife of Hellarus aged about 35 years, by caste Oraon, resident of Bhatapara thana Pratap Pur, district Sarguja, Chhattisgarh.

10. Returning Officer, Block Bhaiyathan (Shri B.C.Ekka) Additional Tehsildar Bhatgaon, Tehsil Surajpur, district Sarguja, C'Garh.

WRIT PETITION UNDER ARTICLES 226 / 227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक W.P. No. 32/ सन् 2001

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	16.04.2003 Shri B.D.Guru, counsel for the petitioner. Shri P.S.Koshy, G.A. for the State/Respondent No.1. Shri Rajesh Pandey, counsel for respondent No.2. Respondents No.3 to 10 were not noticed as they are not contesting the election petition which is pending before respondent No.1. This is clear from the order sheet of this Court dated 11.1.2001. Though this matter is listed for hearing on M.W.P.No.243/2002 for vacation of stay, on the prayer for the learned counsel for the parties, it is taken up for disposal. This writ petition is directed against the order dated 2.1.2001 whereby the petitioner's prayer for permission to adduce additional evidence by examining Station House Officer, Devariya (Uttar Pradesh) and the Naib Tahsildar, Bhatgaon, Dist. Surguja was rejected and, the order dated 3.1.2001 whereby on an application moved by respondent No.2 (election petitioner) amendments were allowed in the election petition. -2-	

[पीछे देखिये

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

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विरुद्ध

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	Having heard learned counsel, the Court is of the opinion that the order allowing the amendment calls for no interference. The amendment is in the relief clause to the effect that the election petitioner be declared as elected. This relief flows from the election petition itself. It does not change the nature of the case nor will it cause any prejudice to the petitioner whose election is called in question. As regards the challenge to the order rejecting the claim of the petitioner for adducing additional evidence, the said rejection is set aside in view of the concession made by learned counsel for respondent No.2 that the said respondent has no objection if the petitioner herein is permitted to adduce the evidence of Naib Tahsildar, Bhatgaon, District Surguja and Station House Officer, Police Station Devariya (Uttar Pradesh) subject to condition that it would be upon the petitioner herein to secure the presence of the Station House Officer, Devariya (U.P.) within a stipulated period. This is acceptable to the ..3..	

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक W.P.No. 32/ सन् 2001

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

learned counsel for the petitioner. In this view of the matter, it is directed that the order rejecting the prayer for adducing evidence is quashed.

It is direction that parties in person or through their counsel should appear before the Respondent No.1 on 7th May, 2003, on which date, the said Respondent shall fix a date for recording the additional evidence of Naib Tahsildar, Bhatgaon to whom summons may be issued. As regards the presence of Station House Officer, Devariya, (U.P.) is concerned, it will be the responsibility of the petitioner to get him examined within a period of two months from 7th May, 2003 for which purpose summons may be handed over to the petitioner for effecting service. In case the petitioner fails to produce the Station House Officer within a period of two months from 7.5.2003 his right to examine him shall stand closed.

The petition is allowed to the extent indicated above.

Consequently, M.W.P. 243/2002, I.A.No.2565/02 & 2912/2003 for urgent hearing stand disposed of.

Sd/-
P.C.Naik
Judge

[पीछे देखिये

Anjani